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Attorneys for Lucille R. Royse

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Lucille R. Royse individually and
on behalf of others similarly situated

Plaintiffs,

v.

JP Morgan Chase Bank

Defendant.

Case No: '11CV2255 LAB CAB

**Class Action Complaint For
Damages**

Jury Trial Demanded

INTRODUCTION

- The California legislature has determined that the banking and credit system and grantors of credit to consumers are dependent upon the collection of just and owing debts and that unfair or deceptive collection practices undermine the public confidence that is essential to the continued functioning of the banking and credit system and sound extensions of credit to consumers. The Legislature has further determined that there is a need to ensure that debt collectors exercise this responsibility with fairness, honesty and due regard

1 for the debtor's rights and that debt collectors must be prohibited from
2 engaging in unfair or deceptive acts or practices.

3 2. Lucille R. Royse, ("Plaintiff"), through Plaintiff's attorneys, brings this action
4 to challenge the actions of JP Morgan Chase Bank, ("Defendant"), with
5 regard to attempts by Defendant to unlawfully and abusively collect a debt
6 allegedly owed by Plaintiff, and this conduct caused Plaintiff damages.

7 3. Plaintiff makes these allegations on information and belief, with the exception
8 of those allegations that pertain to a plaintiff, or to a plaintiff's counsel, which
9 Plaintiff alleges on personal knowledge.

10 4. While many violations are described below with specificity, this Complaint
11 alleges violations of the statutes cited in their entirety.

12 5. Unless otherwise stated, all the conduct engaged in by Defendant took place
13 in California.

14 6. Any violations by Defendant were knowing, willful, and intentional, and
15 Defendants did not maintain procedures reasonably adapted to avoid any such
16 violation.

17 JURISDICTION AND VENUE

18 7. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1332, and 28 U.S.C. §
19 1367 for supplemental state claims.

20 8. This action arises out of Defendant's violations of the Rosenthal Fair Debt
21 Collection Practices Act, California Civil Code §§ 1788-1788.32 ("Rosenthal
22 Act").

23 9. Because Defendant does business within the State of California, personal
24 jurisdiction is established.

25 10. Venue is proper pursuant to 28 U.S.C. § 1391(b) and (c).

26 11. At all times relevant, Defendant conducted business within the State of
27 California.
28

PARTIES

12. Plaintiff is a natural person and resident of the State of California.
13. Defendant is located in the state of Delaware.
14. Plaintiff is a natural person from whom a debt collector sought to collect a consumer debt which was due and owing or alleged to be due and owing from Plaintiff, and is a “debtor” as that term is defined by California Civil Code § 1788.2(h).
15. Defendant, in the ordinary course of business, regularly, on behalf of himself, or others, engaged in debt collection as that term is defined by California Civil Code § 1788.2(b), and is therefore a debt collector as that term is defined by California Civil Code § 1788.2(c).
16. This case involves money, property or their equivalent, due or owing or alleged to be due or owing from a natural person by reason of a consumer credit transaction. As such, this action arises out of a consumer debt and “consumer credit” as those terms are defined by Cal. Civ. Code § 1788.2(f).
17. The true names and capacities of DOES 1 through 25 are currently unknown to Plaintiff who alleges that DOES 1 through 25 are responsible in some manner for the injuries sustained by Plaintiff as hereinafter alleged. Plaintiff requests leave to file amendments to this Complaint alleging the true names and capacities of DOES 1 through 25 when these names and capacities have been ascertained.

FACTUAL ALLEGATIONS

18. Sometime before September 27, 2010, Plaintiff is alleged to have incurred certain financial obligations.
19. These alleged obligations were money, property, or their equivalent, which is due or owing, or alleged to be due or owing, from a natural person to another person and are therefore a “debt” as that term is defined by California Civil

1 Code §1788.2(d), and a “consumer debt” as that term is defined by California
2 Civil Code §1788.2(f).

3 20. Sometime thereafter, but before September 27, 2010, Plaintiff allegedly fell
4 behind in the payments allegedly owed on the alleged debt. Plaintiff currently
5 takes no position as to the validity of this alleged debt.

6 21. Subsequently, but before September 27, 2010, the alleged debt was assigned,
7 placed, or otherwise transferred, to Defendant for collection.

8 22. On or about September 27, 2010, Defendant mailed a dunning letter to
9 Plaintiff. A few days later, Plaintiff received that letter.

10 23. This communication was a “debt collection” as Cal. Civ. Code 1788.2(b)
11 defines that phrase, and an “initial communication” consistent with Cal. Civ.
12 Code § 1812.700(b).

13 24. Defendant’s September 27, 2010 letter notified Plaintiff that Defendant’s legal
14 department had been instructed to file suit against Plaintiff in an attempt to
15 collect the alleged debt from Plaintiff.

16 25. Defendant’s September 27, 2010 letter contains several materially false and
17 misleading statements to include the following: “*Once a judgment is*
18 *obtained*, your income may be garnished and other personal property subject
19 to levy may be seized to satisfy the judgment.” [emphasis added]

20 26. Through this language, Defendant used language in a debt collection letter
21 that was false, deceptive, and misleading in that the language could be
22 reasonably be interpreted as imply that Defendant would take action it has no
23 intention or ability to undertake.

24 27. Through this language, Defendant sent Plaintiff a debt collection letter that
25 was deceptive as this language could be be reasonably read to have two or
26 more different meanings, one of which is inaccurate, that is, that a judgment
27 in this case was a foregone conclusion, that Plaintiff’s income would be
28 garnished, and that Plaintiff’s other property would be seized.

- 1 28. Through this conduct, Defendant used a false, deceptive, or misleading
2 representation or means in connection with the collection of a debt.
3 Consequently, Defendant violated 15 U.S.C. § 1692e and 15 U.S.C. §
4 1692e(10).
- 5 29. Through this conduct, Defendant made a false representation concerning the
6 character, amount, or legal status of a debt. Consequently, Defendant violated
7 15 U.S.C. § 1692e(2)(A).
- 8 30. Through this conduct, Defendant represented or implied that nonpayment of
9 any debt would result in the arrest or imprisonment of a person or the seizure,
10 garnishment, attachment, or sale of property or wages of a person when such
11 action was not lawful Defendant did not intended to take such action.
12 Consequently, Defendant violated 15 U.S.C. § 1692e(4).
- 13 31. Because this violated certain portions of the federal Fair Debt Collection
14 Practices Act as these portions are incorporated by reference in the Rosenthal
15 Fair Debt Collection Practices Act, through California Civil Code § 1788.17,
16 this conduct or omission violated Cal. Civ. Code § 1788.17.
- 17 32. Defendant's September 27, 2010 letter goes on to state: "In addition to the
18 \$1,699.14 due on your account, the *judgment may include costs of suit,*
19 *interest and attorneys fees at the discretion of the court.*" [emphasis added]
- 20 33. This language by Defendant contained no language clarifying or explaining
21 Defendant's equivocal language.
- 22 34. Through this language, Defendant used language in a debt collection letter
23 that was false, deceptive, and misleading in that the language could be
24 reasonably be interpreted as imply that Defendant would take action it has no
25 intention or ability to undertake.
- 26 35. Through this language, Defendant sent Plaintiff a debt collection letter that
27 was false, deceptive, and misleading, as this language could be be reasonably
28 read to have two or more different meanings, one of which is inaccurate, that

1 is, that based merely on the the discretion of a court, Plaintiff could be found
2 liable for attorneys' fees and costs.

3 36. Through this conduct, Defendant used a false, deceptive, or misleading
4 representation or means in connection with the collection of a debt.
5 Consequently, Defendant violated 15 U.S.C. § 1692e and 15 U.S.C. §
6 1692e(10).

7 37. Through this conduct, Defendant made a false representation concerning the
8 character, amount, or legal status of a debt. Consequently, Defendant violated
9 15 U.S.C. § 1692e(2)(A).

10 38. Because this violated certain portions of the federal Fair Debt Collection
11 Practices Act as these portions are incorporated by reference in the Rosenthal
12 Fair Debt Collection Practices Act, through California Civil Code § 1788.17,
13 this conduct or omission violated Cal. Civ. Code § 1788.17.

14 39. Defendant's September 27, 2010 letter then goes on to explain "Judgments
15 can remain in your record for 10 years *or longer*." [emphasis added].

16 40. This language by Defendant contained no language clarifying or explaining
17 Defendant's statement.

18 41. Through this language, Defendant used language in a debt collection letter
19 that was false, deceptive, and misleading in that the language could be
20 reasonably be interpreted as imply that Plaintiff's ability to obtain a judgment
21 was a foregone conclusion, and that Defendant would take action it has no
22 intention or ability to undertake.

23 42. Through this language, Defendant sent Plaintiff a debt collection letter that
24 was false, deceptive, and misleading, as this language could be be reasonably
25 read to have two or more different meanings, one of which is inaccurate, that
26 is, that this judgment that was a foregone conclusion and would remain on
27 Plaintiff's credit record, for over ten years, when, in fact, that is not true.
28

43. Through this conduct, Defendant used a false, deceptive, or misleading representation or means in connection with the collection of a debt. Consequently, Defendant violated 15 U.S.C. § 1692e and 15 U.S.C. § 1692e(10).

44. Because this violated certain portions of the federal Fair Debt Collection Practices Act as these portions are incorporated by reference in the Rosenthal Fair Debt Collection Practices Act, through California Civil Code § 1788.17, this conduct or omission violated Cal. Civ. Code § 1788.17.

45. Finally, Defendant's September 27, 2010 letter concludes with this paragraph:

"Filing of the lawsuit is unavoidable. However, *to avoid the unnecessary progression of the lawsuit to judgment and eventually wage garnishment*, please contact one of my legal assistants immediately for repayment options at the number indicated above upon receipt of this letter. Thank you for your attention to this matter." [emphasis added]

46. This language by Defendant contained no language clarifying or explaining Defendant's statement.

47. Through this language, Defendant used language in a debt collection letter that was false, deceptive, and misleading in that the language could be reasonably be interpreted as imply that Defendant would take action it has no intention or ability to undertake.

48. Through this language, Defendant sent Plaintiff a debt collection letter that was deceptive as this language could be be reasonably read to have two or more different meanings, one of which is inaccurate, that is, that a judgment in this case was a foregone conclusion, and that wage garnishment was a foregone conclusion.

49. Through this conduct, Defendant used a false, deceptive, or misleading representation or means in connection with the collection of a debt.

Consequently, Defendant violated 15 U.S.C. § 1692e and 15 U.S.C. § 1692e(10).

50. Through this conduct, Defendant represented or implied that nonpayment of any debt would result in the arrest or imprisonment of a person or the seizure, garnishment, attachment, or sale of property or wages of a person when such action was not lawful Defendant did not intended to take such action. Consequently, Defendant violated 15 U.S.C. § 1692e(4).

51. Because this violated certain portions of the federal Fair Debt Collection Practices Act as these portions are incorporated by reference in the Rosenthal Fair Debt Collection Practices Act, through California Civil Code § 1788.17, this conduct or omission violated Cal. Civ. Code § 1788.17.

CLASS ACTION ALLEGATIONS

52. Plaintiff bring this action on behalf of one class, enumerated here as “Class One.”

53. Class One consists of (a) all natural persons with addresses inside California, (b) who were sent a an initial written communication, as anticipated by the FDCPA under 15 U.S.C. § 1692g(a) and was therefore incorporated by California’s Rosenthal Act, which was similar or identical to the September 27, 2010 correspondence mailed to Plaintiff and attached hereto as Exhibit A, (c) on or after a date one year prior to the filing of this action, and (d) on or before a date 20 days after the filing of this action.

54. There are more than 1000 members of the class, and the class members are so numerous that joinder is impracticable.

55. There are questions of law and fact common to the class members, which common questions predominate over any questions that affect only individual class members. The predominant common question is whether by the September 27, 2010 mailing Defendant violated California’s Rosenthal Act.

56. Plaintiff's claims are typical of the claims of the class members. All are based on the same factual and legal theories.

57. Plaintiff will fairly and adequately represent the interests of the class members. Plaintiff has retained counsel experienced in consumer credit and debt collection abuse cases.

58. A class action is superior to other alternative methods of adjudicating this dispute. Individual cases are not economically feasible. Many debtors may not realize that their rights are violated.

CAUSE OF ACTION

COUNT I

ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT (ROSENTHAL ACT)

CAL. CIV. CODE §§ 1788-1788.32

59. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs.

60. The foregoing acts and omissions constitute numerous and multiple violations of the Rosenthal Act, including but not limited to each and every one of the above-cited provisions of the Rosenthal Act, Cal. Civ. Code §§ 1788-1788.32

61. As a result of each and every violation of the Rosenthal Act, Plaintiff is entitled to any actual damages pursuant to Cal. Civ. Code § 1788.30(a); statutory damages for a knowing or willful violation in the amount up to \$1,000.00 pursuant to Cal. Civ. Code § 1788.30(b); and reasonable attorney's fees and costs pursuant to Cal. Civ. Code § 1788.30(c) from Defendant.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that the Court enter judgment in favor of Plaintiff and the class members and against Defendant for:

- a. An award of statutory damages related to all members of Class One, pursuant to Cal. Civ. Code § 1788.30(b);

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Lucille R. Royse individually and on behalf of others similarly situated

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Hyde & Swigart
411 Camino Del Rio South Suite 301, San Diego, CA 92108

DEFENDANTS

JP Morgan Chase Bank

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

'11CV2255 LAB CAB

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input checked="" type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. § 1692 et seq.

Brief description of cause:
Unfair Debt Collection Practices

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$
5,000,001.00+

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

09/28/11

s/Joshua B. Swigart

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.